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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. | |
|---------------------------------|------------------------------------|----------------------|---------------------|------------------|--|
| 10/657,308 | 09/08/2003 | Renato Belz | 21933-US | 9743 | |
| | 7590 08/20/200 ar Systems, Inc. | | EXAMINER | | |
| Patent Law Dep | partment | | REDDING, DAVID A | | |
| 4300 Hacienda Pleasanton, CA | | | ART UNIT | PAPER NUMBER | |
| | | | 3723 | | |
| | | | | | |
| | | | MAIL DATE | DELIVERY MODE | |
| | | | 08/20/2008 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | | Applica | tion No. | Applicant(s) | Applicant(s) | |
|--|---|--|--|--|--------------|--|
| | | 10/657, | 308 | BELZ ET AL. | | |
| | | Examin | er | Art Unit | | |
| | | | . Redding/ | 3723 | | |
| Period fo | The MAILING DATE of this communi r Reply | cation appears on t | he cover sheet with | the correspondence a | ddress | |
| WHIC - Exter after - If NO - Failui Any r | ORTENED STATUTORY PERIOD FOR HEVER IS LONGER, FROM THE MASSING OF | AILING DATE OF of 37 CFR 1.136(a). In no unication. tutory period will apply and will, by statute, cause the a | FHIS COMMUNICA' event, however, may a reply will expire SIX (6) MONTHS pplication to become ABANI | TION. be timely filed from the mailing date of this DONED (35 U.S.C. § 133). | | |
| Status | | | | | | |
| 2a)⊠ | Responsive to communication(s) filed This action is FINAL . 2 Since this application is in condition followed in accordance with the practice. | b) This action is for allowance excep | ot for formal matters | • | e merits is | |
| Dispositi | on of Claims | | | | | |
| 5)□ 6)⊠ 7)□ 8)□ | Claim(s) <u>6</u> is/are pending in the appli 4a) Of the above claim(s) is/ar Claim(s) is/are allowed. Claim(s) <u>6</u> is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restrict | e withdrawn from c | | | | |
| 10) | The specification is objected to by the The drawing(s) filed on is/are: Applicant may not request that any object Replacement drawing sheet(s) including | a) accepted or lition to the drawing(s the correction is requ | be held in abeyance. sired if the drawing(s) | . See 37 CFR 1.85(a). is objected to. See 37 C | | |
| • | The oath or declaration is objected to | by the Examiner. I | Note the attached O | Trice Action or form P | 10-152. | |
| Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some col None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| 2) Notic 3) Inforr | t (s) e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (P ⁻ nation Disclosure Statement(s) (PTO/SB/08) r No(s)/Mail Date | ГО-948) | Paper No(s)/M | nmary (PTO-413) fail Date mal Patent Application | | |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,720,406 (Fassbind et al.) in view of USP 6,776,964 ('964) and USP 4,226,333 (Percarpio).

The "406 patent discloses a plurality of reaction containers (91) with corresponding plurality of closures (95) which is placed into a device for performing thermal cycling (see description of figure 1 and col.1, lines 20-23). Figure 1 shows a ring of reaction containers (91) and a ring of closures (95), each of which are two-dimensional (X and Y axis). The reaction vessels are connected to one another via a flexible connector (94) and the closures connected to an adjacent closure via a flexible connector (96) (col.3, lines 59-61; col.4, lines 1-5). The connectors (96) do not extend in a direct line between the containers but extend transversely to the connecting line between the closure. The patent also discloses that the device is equipped with a handle (99,102) which has a surface upon which a bar code label can be placed (col.4, lines 10-11). Further, the apex of the connector (96) is considered to read on the limitations of claim 3.

In Fassbind et al. the closures have rounded tops, not recesses. The "964 patent shows a closure assembly comprising caps which do have cylindrical recesses (figure 4). Accordingly, it would have been obvious to one skilled in the art to provide the

closures in Fassbind et al. with recesses as shown in the "964 patent as a matter of choice of design.

The Fassbind et al. and '964 patents are silent as to providing a tool with having a handle with pin for insertion into the recess of the cap for seating the cap. Figures 2 and 3 in the Percarpio patent shows the use of a tool (34) as claimed for the same function as claimed (see col. 4, lines 40-56). Accordingly, it would have been obvious to one skilled in the art to provide the tool (34) in Percarpio with the closure in the '964 patent with the containers in Fassbind et al. in view of the tools known use.

Response to Arguments

The arguments are addressed in the order in which they appear in applicant's response filed 4/30/08.

Applicant argues that Fassbind does not teach or suggest a flexible connecting member having a cross part which extends transversely to the closure elements.

The examiner disagrees with this argument. Figure 1 in Fassbind shows that the closures are connected to one another via a flexible element which is not a direct connection but does extend transversely between the closures. Each of these elements are constructed to allow the distances between the vessels and closures to change (col.3, lines 59-61; col.4, lines 1-5).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /David A. Redding/ whose telephone number is 571-272-1276. The examiner can normally be reached on Mon.-Fri. 6:00 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David A Redding/ Primary Examiner Art Unit 3723

DAR